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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,567	08/24/2004	Bryn Lincoln Chapple	P2287US	2442

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EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/505,567

Applicant(s)

CHAPPLE, BRYN LINCOLN

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 20-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/24/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no description found in the specification to positively and definitely set forth which disclosed structure comprises the **first and second side panels of the claims or the base** disposed there between. The language between the specification and claims should be consistent.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim terms "first side panel", "second side panel" and "base" are not found in the specification and render the meaning of those terms vague and indefinite. Consistent language between the specification and claims should be maintained.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 26-28 and 30-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 26, lines 1-2, "a first and a second aperture" is indefinite and should be --a first aperture and a second aperture--.

In claim 30, the reference to plural channels has no support from parent claims 24 and 20. In lines 7 and 11, "and then transitions second portion" is ungrammatical and does not make sense as to what is being claimed. See also claim 31, lines 21 and 25-26.

In claim 35, line 9, "are configured" should be --is configured--, as "the end section" is the modified noun.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 20-30, 37-38 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohminato (4,693,625). Claims 20-28 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyamoto (2,915,068). Claims 20-28 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Wedge (2,120,659). Each discloses a carrier capable of holding media, the carrier comprising a first side (40; 3; 10 and/or 13; respectively), a second side (50; 6; 10 and/or 13) and a base portion (30; 2; 5), the base portion further including a channel (defined by 40-30-50 or inside of

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element 40 or 50, the channel receiving element 60; defined by 3-2-6; defined by 10-5-10 or 11) and a structure (42; 5; 14) to engage a plurality of sleeves.

As to claims 21 -25, each discloses the relationships of the sides as claimed and each discloses multiple bars (42; 5; 14; 16).

As to claims 26-28, each discloses apertures (receiving ends of 42; 7, 7; 16, 16).

As to claims 29 and 30, Ohminato discloses two channels (inside of elements 40 and 50, the channels receiving elements 60).

As to claim 37, each discloses a carrier comprising a bar (42; 5; 14), a base (defined by 40-30-50 or inside of element 40 or 50, the channel receiving element 60; defined by 3-2-6; defined by 10-5-10 or 11), a cutout (mounted on 42; mounted on 5; as shown in Figure 3), a plurality of sleeves (received on 52; filing covers; 15) each engaging the bar at a cutout, and a storage device (10; 1; binder 2 and 3) comprising a rail (60; 9A; 6).

As to claim 38, Ohminato discloses two bars (42), cutouts engaging the bars and two rails (60).

As to claim 42, Ohminato discloses a mounting plate (30).

8. Claims 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheris et al. (Figures 1-4) (5,749,464). Claims 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheng (5,176,250). Each discloses a storage system storing flat computer articles comprising a sleeve (70; 19 or 26) and an end section (60; at 28), the system further comprising a carrier (50 or 76 and 77; 15) comprising a first connecting

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portion (52 or 76; 17), a second connecting portion (54, 54 or 77; at 16) opposite the first connecting section, the end section of each computer article sleeve and the first connecting portion engaging one another, and a container or storage device (30; 1), comprising a lid (34; 2), a base (32; 3), a connecting portion (33; 10 and/or 11;) and a rail (40; 20).

As to claim 36, Cheris et al. disclose plural carriers (76 and 77).

As to claim 37, each discloses a bar (60; 15), a base (50; 8-12), a plurality of sleeves (70; 19 or 26) each engaging the bar at a cutout (73; 16), and a storage device (30; 1) comprising a rail (40; 20).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohminato. Ohminato discloses the claimed structure except for the edge configurations of the sides being variously convex and concave. In as much as this shaping does not appear to distinguish any new or unexpected mechanical advantage, the claimed shapes are held to have been an obvious matter of design choice.

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11. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-34, drawn to a carrier, classified in class 402, subclass 75.
- II. Claims 35-43, drawn to a storage system, classified in class 206, subclass 311.

12. The inventions are independent or distinct, each from the other because:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the carrier as set forth in claims 35-43 is not limited to the carrier as set forth in claims 1-34. The subcombination of the particular has separate utility such as a carrier in storage systems other than that specified by claims 35-43.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

13. This application contains claims directed to the following patentably distinct species: A) Figure 4; B) Figure 5; C) Figure 6; and D) Figure 7. The species are independent or distinct because the different species are specifically claimed, and there

is no indication that the species are obvious variants of one another or that a generic claim common to all species is allowable.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.
MPEP § 809.02(a).

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sown are similar carrier and storage systems to that being claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

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272-4555. The examiner can normally be reached on Monday through Wednesday and Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BPG

Bryon P. Gehman
Primary Examiner
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